

Memorandum

To : Mr. Ramon J. Hirsig
Executive Director, MIC:73

Date: January 3, 2006

From : Kristine Cazadd, Chief Counsel
Legal Department, MIC:83

Subject : Regulation 1707, *Electronic Funds Transfer*
Chief Counsel's Rulemaking Calendar
Board Meeting—January 31, 2006

Prior to recent legislative changes, Revenue and Taxation Code (RTC) section 6479.3 provided that persons with an estimated sales and use tax liability of twenty thousand dollars (\$20,000) or more per month are required to remit amounts due by electronic funds transfer. Effective June 26, 2003, the Board promulgated Regulation 1707, *Electronic Funds Transfer*, in part to implement and interpret RTC section 6479.3. Last July, the budget trailer bill, Assembly Bill 139 (Ch. 74, Statutes of 2005) amended RTC section 6479.3 to reduce the threshold for mandatory participation in the electronic funds transfer (EFT) program from an estimated monthly tax liability of \$20,000 or more to \$10,000 or more, operative July 19, 2005. Subsequently, Assembly Bill 1765 (Ch. 519, Statutes of 2005) changed the operative date for the reduction in the threshold for mandatory participation in the EFT program from July 19, 2005 to January 1, 2006. Assembly Bill 1765 also deleted a provision in RTC section 6479.3 that states a person whose monthly tax liability does not meet or exceed the threshold for mandatory participation in the EFT program, but who voluntarily participates in the EFT program, must do so for a minimum of one year. Accordingly, revisions to the regulation are necessary to specify the reduction in the threshold for mandatory participation in the EFT program, and to delete the language that explained that a person who voluntarily participates in the EFT program must remain in the program for a minimum of one year.

One additional revision to the regulation is proposed for clarification only. In subdivision (b)(2), Regulation 1707 explains that to participate in the EFT program on a voluntary basis, a person must first "register" with the Board. The word "register" could lead to confusion, since "register" often is used to mean "obtain a seller's permit." As explained in Operations Memo 1024, a person must file an "authorization agreement" with the Board prior to voluntary participation in the EFT program. For clarification, replacing the word "register" with the phrase "file an authorization agreement" is proposed.

We request your approval to place the matter on the Chief Counsel's Rulemaking Calendar on January 31, 2006 for Board authorization to amend the regulation as Rule 100 changes, without the normal notice and hearing process. These changes are appropriate for processing under Rule 100 because they implement new legislation and clarify an existing requirement of the EFT program without altering taxpayers' responsibilities under that program.

Attached is the strikeout and underlined version of the regulation.

If you have any questions regarding this request, please let me know or contact Ms. Lisa Andrews at 322-5989.

Recommendation by:

Approved:

Kristine Cazadd, Chief Counsel

Ramon J. Hirsig, Executive Director

Approved:

BOARD APPROVED

At the _____ Board Meeting

Randie L. Henry, Deputy Director
Sales and Use Tax Department

Deborah Pellegrini, Chief
Board Proceedings Division

Attachment

cc (all with attachment):
Ms. Randie L. Henry (MIC 43)
Ms. Deborah Pellegrini (MIC 81)
Ms. Selvi Stanislaus (MIC 82)
Mr. Randy Ferris (MIC 82)
Mr. John Waid (MIC 82)
Mr. Jeffrey L. McGuire (MIC 92)
Mr. Geoffrey E. Lyle (MIC 50)
Ms. Leila Khabbaz (MIC 50)
Ms. Lisa Andrews (MIC 50)